



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 11, 1998

The Honorable David Sibley  
Chair, Committee on Economic Development  
Texas State Senate  
P.O. Box 12068  
Austin, Texas 78711-2068

Letter Opinion No. 98-040

Re: Whether a nonprofit water supply corporation  
that is not exempt from ad valorem taxation is  
subject to the Open Meetings Act (RQ-1071)

Dear Senator Sibley:

You have requested our opinion as to whether a nonprofit water supply corporation that is not exempt from taxation is subject to the Open Meetings Act, chapter 551, Government Code.

You explain that the North Bosque Water Supply Corporation ("the corporation") is a nonprofit water supply corporation organized under the terms of article 1434a, V.T.C.S.<sup>1</sup> Although sections 15.006, 16.002, and 17.002 of the Water Code provide that "water supply corporations which receive any [state] assistance [] are subject to" the Open Meetings Act, you indicate that the Corporation "does not receive, and has not received, any financial assistance from the State of Texas."

Section 551.001(3)(I), Government Code, defines "governmental body" for purposes of the Open Meetings Act, as, *inter alia*, "a nonprofit corporation organized under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code." You explain, however, that "the Corporation is not eligible for an exemption under Section 11.30 of the Tax Code because its bylaws currently provide that upon dissolution of the Corporation its assets will be transferred to its members." Thus, the corporation is subject to the Open Meetings Act only if it falls within another definition of "governmental body" under section 551.001, Government Code.

Prior to the inclusion of most nonprofit water supply corporations within the definition of "governmental body" in section 551.001, this office addressed this precise question. In Attorney General Opinion JM-596, the attorney general declared:

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<sup>1</sup>Article 1434a V.T.C.S. was repealed and recodified as chapter 67 of the Texas Water Code by the Seventy-fifth Legislature in a nonsubstantive recodification of statutes pertaining to utilities. Act of May 8, 1997, 75th Leg., R.S., ch. 166, §§ 2, 9, 1997 Tex. Gen. Laws 713, 1001, 1018.


Our discussion of the meaning of “governmental body” in the Open Records Act demonstrates that an article 1434a corporation is not “within the executive or legislative department of the state” and that it is not any of the political subdivisions or other local entities enumerated in the definition of “governmental body.” See *Tarrant County Water Supply Corp. v. Hurst-Euless-Bedford Independent School Dist.*, *supra*; Attorney General Opinion M-1070 (1972). The Open Meetings Act does not include any provision comparable to the definition of “governmental body” found in Section 2(1)(F) of the Open Records Act, which refers to corporations supported in whole or in part by public funds. We conclude that a nonprofit water supply corporation need not comply with the Open Meetings Act unless it is required to do so by sections 15.006, 16.002, or 17.002 of the Water Code.

Attorney General Opinion JM-596 (1986) at 3-4. Although, as you point out, “the legislature has amended several specific provisions under the Texas Water Code which define “political subdivisions” for purposes of the Water Code,” we noted in Attorney General Letter Opinion 95-011 that “[t]he use of a specialized definition of ‘political subdivision’ in particular statutes does not change the meaning of that term elsewhere.” Letter Opinion No. 95-011 (1995) at 2. In our opinion, if the corporation is neither the kind of “nonprofit water supply corporation” that falls within the definition of a “governmental body” under section 551.001(3)(I) of the Open Meetings Act, nor is the kind of “nonprofit water supply corporation” that is encompassed within the requirements of sections 15.006, 16.002, or 17.002 of the Water Code, it is not subject to the terms of the Open Meetings Act.

### S U M M A R Y

If the North Bosque Water Supply Corporation is not the kind of “nonprofit water supply corporation” embraced by section 551.001(3)(I) of the Open Meetings Act, nor is included within the ambit of sections 15.006, 16.002, or 17.002 of the Water Code, it is not subject to the Open Meetings Act.

Yours very truly,



Rick Gilpin  
Deputy Chair  
Opinion Committee